

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

**FILED**

**APR 04 2016**

Clerk, U.S. District Court  
District Of Montana  
Missoula

JOSE SMITH,

Plaintiff,

vs.

NANCY C. KING,

Defendant.

CV 15-174-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered findings and recommendations in this case on January 21, 2016, recommending that Plaintiff Jose Smith's ("Smith") complaint be dismissed for failure to state a claim and lack of jurisdiction. Smith filed objections to the findings and recommendations on February 3, 2016, and so is entitled to de novo review of those findings and recommendations to which he specifically objects. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). "Clear error exists if the Court is left with a definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Notwithstanding the above, “[w]here a [party’s] objections constitute perfunctory responses argued in an attempt to engage the district court in a rehashing of the same arguments set forth in the original [complaint], the applicable portions of the findings and recommendations will be reviewed for clear error.” *Rosling v. Kirkegard*, 2014 WL 693315 at \*3 (D. Mont. Feb. 21, 2014) (citations omitted).

Having reviewed Smith’s objections, the Court finds that he fails to articulate any specific issue with Judge Lynch’s reasoning, and instead once again pleads with the Court to accept jurisdiction of his Indiana state civil case. As Judge Lynch explained in his findings and recommendations, there is simply no authority by which the Court may effect a change of venue for the referenced proceeding. Accordingly, the Court reviews Judge Lynch’s findings and recommendations for clear error and, finding none,

IT IS ORDERED that Judge Lynch’s findings and recommendations (Doc. 5) are ADOPTED IN FULL. Smith’s case is DISMISSED for failure to state a claim and lack of jurisdiction.

DATED this 4<sup>th</sup> day of April, 2016.

A handwritten signature in black ink, reading "Dana L. Christensen". The signature is written in a cursive, flowing style. The first name "Dana" is written with a large, looped capital "D". The last name "Christensen" is written in a similar cursive style. The signature is positioned above a horizontal line.

Dana L. Christensen, Chief Judge  
United States District Court